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Ninth Annual Report of the Citizen Trade Policy Commission, 2014

Maine State Legislature

Office of Policy and Legal Analysis

Lock Kiermaier

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**STATE OF MAINE
126th LEGISLATURE
FIRST REGULAR SESSION**

**Ninth Annual Report
of the
Citizen Trade Policy Commission**

March 2014

Voting Members:

**Sen. Troy Jackson, Co-Chair
Rep. Sharon Anglin Treat, Co-Chair
Sen. John L. Patrick
Sen. Roger L. Sherman
Rep. Jeffrey McCabe
Rep. Bernard L. Ayotte**

**Stephen Cole
Michael Herz
Robert Umphrey
Dr. Joel Kase
Linda Pistner
John Palmer
Harry K. Ricker
Jay Wadleigh**

**Staff
Lock Kiermaier, Contract Staff**

**Advisory Members
Mike Karagiannes
Pamela Taylor
Wade Merritt**

Table of Contents

	Page
I. Introduction.....	1
II. Commission Meetings.....	1
III. Commission Actions	3
IV. Agenda for 2014	4

Appendices:

- A. Authorizing Public Law
- B. Membership list, Citizen Trade Policy Commission
- C. Legislative Resolution sponsored by the Citizen Trade Policy Commission
- D. Letters sent by the Citizen Trade Policy Commission

I. INTRODUCTION

The Citizen Trade Policy Commission (CTPC) was established during the Second Special Session of the 121st Legislature by Public Law 2003, chapter 699. A copy of the law establishing and governing the Commission and amendments to that law are in Appendix A. The 22-member Commission includes six legislators, an Attorney General designee, five non-voting agency officials representing the Department of Labor, the Maine International Trade Center, the Department of Environmental Protection, the Department of Agriculture, Food and Rural Resources, and the Department of Human Services, and 10 public members representing business, labor, health, government and environmental interests. The Commission initially convened on October 6, 2004. The Commission's current membership list can be found in Appendix B.

The Commission provides an ongoing state-level mechanism to assess the impact of international trade policies and agreements on Maine's state and local laws, business environment and working conditions. Specifically, the Commission has the following duties:

- 1) To assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment;
- 2) To provide a mechanism for citizens and legislators to voice their concerns and recommendations;
- 3) To make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impacts of trade agreements; and
- 4) To establish and maintain a communication link between local, state and federal agencies and the public.

Information about the Commission's activities and all Commission documents can be found online at <http://www.maine.gov/legis/opla/citpol.htm> or obtained through the Office of Policy and Legal Analysis.

II. MEETINGS

During this reporting period, January 1, 2013 through December 31, 2013, the Commission held seven meetings on the following dates:

- March 22, 2013
- April 26, 2013
- May 24, 2013
- July 1, 2013
- September 19, 2013 (Meeting & Public Hearing)

- November 15, 2013
- December 12, 2013 (Public Hearing)

Summaries of the Commission's meetings can be found on its website <http://www.maine.gov/legis/opla/citpol.htm>.

The Commission used its meetings and public hearings to:

- Monitor, discuss and react to on-going and emerging trade issues with a specific focus on the developing Trans Pacific Partnership Agreement (TPP) and the recent negotiations for the Transatlantic Trade and Investment Partnership (TTIP);
- Continue to explore the impact of international trade agreements on Maine's businesses, labor force, healthcare system and the environment;
- Coordinate its efforts with Maine's congressional delegation, state officials and other entities involved with international trade; and
- Further develop its relationship and communications with the United States Trade Representative.

The Commission is required by statute to hold at least two meetings per year at different locations in the state in order to hear public testimony and recommendations from people in the state regarding the actual and potential impacts of international trade agreements. During this reporting period of 12 months, the Commission held public hearings in Augusta and Belfast.

In addition, the Commission regularly invited guest speakers to its meetings to provide information on trade issues, pending trade agreements and issues relevant to the Commission's work. During this reporting period (January 2013 to December 2013), the Commission benefited from the following presentations:

- **Representative Sharon Anglin Treat, CTPC Chair and Cleared Advisor, United States Trade Representative.** During the CTPC's meeting on March 22, 2013, Representative Treat made a PowerPoint presentation titled, "Trade Policy 101: Trade Fundamentals and the Impact of the TransPacific Partnership on Maine" regarding an overview of international trade fundamentals and the possible effects of the TPP on Maine.
- **Daniel Deveau, Maine Canadian Trade Ombudsman.** Mr. Deveau made 2 presentations to the CTPC; the first presentation was made during the April 26, 2013 meeting and second was made at the May 24, 2013 meeting. In both meetings, Mr. Deveau discussed his role in the newly created position of Maine Canadian Trade Ombudsman within the Governor's Office. Mr. Deveau also provided details about a recent Memorandum of Understanding between the State of Maine and the Province of Quebec, discussed a recent proposal from the U.S. Department of Homeland Security to impose a border crossing fee for those individuals traveling between the U.S. and Canada and

informed the CTPC about the New England Governors – Eastern Provincial Conference to be held in Quebec on September 8, 2013.

- **Wade Merritt, CTPC member and Vice President of the Maine International Trade Center (MITC).** Mr. Merritt made a presentation to the CTPC during its April 26, 2013 meeting regarding the purpose, activities and recent accomplishments of the MITC. Mr. Merritt emphasized the MITC’s successful efforts in collaborating with many in-state and international entities to significantly increase international trade activity for the State of Maine.
- **Kathie Leonard, President of Auburn Manufacturing and Cleared Advisor to the USTR.** Ms. Leonard spoke to the CTPC during their meeting on July 1, 2013 and discussed her perspective on international trade as CEO for a prominent manufacturing company located in Maine. Ms. Leonard detailed her frustrations of competing with foreign manufacturers on what she believes to be an unfair playing field and her perspective on the provisions of current international trade treaties that she believes put many domestic manufacturers such as Auburn Manufacturing at a competitive disadvantage.

On November 15, 2013, the CTPC member Senator Roger Sherman and CTPC Chair Representative Sharon Anglin Treat had the opportunity to meet with U.S. Senator Angus S. King, Jr. to discuss the CTPC’s concerns and perspectives on President Obama’s Trade Promotion Authority (aka “Fast Track”) proposal and on the TPP and TTIP, all of which are under review or pending before Congress.

In addition, as required by current law, in 2013 the CTPC held two well attended public hearings in different locations across the state. The first public hearing was held in Augusta on September 19th and featured personal testimony on a variety of trade topics from 10 individuals including representatives from Maine Congressman Mike Michaud’s office, Friends of the Earth, AFL-CIO, American Civil Liberties Union of Maine, Maine Fair Trade Campaign, Environmental Health Strategy Center, Georgetown University Law Center, Sappi Somerset Plant in Skowhegan, and Defending Water for Life in Maine.

The second public hearing held by the CTPC took place in Belfast on December 12th and had a focus on agricultural and seafood topics as they pertain to the various international trade treaties currently under negotiation. The public hearing featured personal testimony from 19 individual including representatives from Food for Maine’s Future, Pax Christi Maine, Maine Lobstermen’s Union, Maine Congresswoman Chellie Pingree’s office, Maine Farm Bureau Association, Alliance for Democracy, Maine Farmland Trust, Food & Water Watch, Institute for Agriculture and Trade Policy, Waldo County Peace and Justice Group, and 350 Maine.

III. COMMISSION ACTIONS

In addition to actions previously discussed, the Commission engaged in the following activities.

- During its April 26, 2013 meeting, the CTPC drafted and unanimously approved a Resolution regarding the use of the Trade Promotion Authority (Fast Track) urging the President, the USTR and members of Congress to develop a middle ground approach to congressional review and approval of international trade treaties such as the TPP and the TTIP. This Resolution was unanimously approved by the Legislature and is included as Appendix C.
- Also during its April 26, 2013 meeting, upon a unanimous vote, the CTPC sent a letter to the Legislative Council regarding a proposed Resolution which included language supporting the inclusion of the Republic of China (Taiwan) in the ongoing TPP negotiation. In this letter, the CTPC expressed its position that this Resolution should be amended to omit any such endorsement until the CTPC or some other legislative policy commission had adequately reviewed and vetted any such endorsement. This letter is included in Appendix D.
- Upon unanimous approval during its April 26, 2013 meeting, the CTPC also sent a letter to Secretary Janet Napolitano of the U.S. Department of Homeland Security about a proposed border crossing fee for those traveling between the U.S. and Canada. This letter is included in Appendix D.
- As a further result of the April 26, 2013 meeting, the CTPC unanimously voted to send a letter to U.S. Congressional leadership indicating its strong support for continued funding for the State Trade and Export Promotion program within the U.S. Small Business Administration. This letter is included in Appendix D.
- The Chairs of the CTPC, Senator Troy Jackson and Representative Sharon Anglin Treat, sent a letter dated August 22, 2013 to USTR Michael Froman indicating their opposition to the current USTR proposal regarding inclusion of tobacco control provisions in the TPP. This letter is included in Appendix D.
- To follow up on a November 15, 2013 meeting with U.S. Senator Angus S. King, Jr., CTPC member Senator Roger Sherman and CTPC Chair Representative Sharon Anglin Treat sent a letter to Senator King reiterating CTPC concerns about USTR proposals for the TPP and the President's Trade Promotion Authority (Fast Track) proposal. This letter is included in Appendix D.

IV. AGENDA FOR 2014

The Commission's agenda for 2014 will include the following efforts.

- The Commission will continue its dialogue with federal, state and local entities and Maine's citizenry to advocate for improvement in the federal government's consultation with states.
- As required by law, the Commission will conduct an assessment of the impacts of international trade agreements on Maine's state laws, municipal laws, and the business environment and working conditions in Maine.
- The Commission will continue to monitor international trade negotiations and elevate trade-related issues affecting Maine at the state and local levels to Maine's Congressional Delegations and to other appropriate federal entities.

- The Commission will continue to closely monitor the ongoing negotiations of the Trans Pacific Partnership Agreement and work with the representative on the USTR Intergovernmental Policy Advisory Committee to the greatest extent possible to ensure positive results for Maine people.
- The Commission will continue to meet its statutory obligations to monitor the impacts of trade agreements on state and local laws, working conditions and the environment.
- The Commission will work to continue to provide a mechanism for citizens and legislators to voice their concerns and recommendations and to make policy recommendations with the hope of protecting Maine's laws, jobs and the overall business environment from any negative impacts of trade agreements.

APPENDIX A

Authorizing Legislation: 1 MRSA Chapter 1-A

Maine Revised Statutes
Title 10: COMMERCE AND TRADE
Chapter 1-A: INTERNATIONAL TRADE AND THE ECONOMY

§11. MAINE JOBS, TRADE AND DEMOCRACY ACT

1. Short title. This section may be known and cited as "the Maine Jobs, Trade and Democracy Act."

[2003, c. 699, §2 (NEW) .]

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commission" means the Citizen Trade Policy Commission established in Title 5, section 12004-I, subsection 79-A. [2003, c. 699, §2 (NEW) .]

B. "Trade agreement" means any agreement reached between the United States Government and any other country, countries or other international political entity or entities that proposes to regulate trade among the parties to the agreement. "Trade agreement" includes, but is not limited to, the North American Free Trade Agreement, agreements with the World Trade Organization and the proposed Free Trade Area of the Americas. [2003, c. 699, §2 (NEW) .]

[2003, c. 699, §2 (NEW) .]

3. Purposes. The commission is established to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and Legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements.

[2003, c. 699, §2 (NEW) .]

4. Membership. The commission consists of the following members:

A. The following 17 voting members:

- (1) Three Senators representing at least 2 political parties, appointed by the President of the Senate;
- (2) Three members of the House of Representatives representing at least 2 political parties, appointed by the Speaker of the House;
- (3) The Attorney General or the Attorney General's designee;
- (4) Four members of the public, appointed by the Governor as follows:
 - (a) A small business person;
 - (b) A small farmer;
 - (c) A representative of a nonprofit organization that promotes fair trade policies; and
 - (d) A representative of a Maine-based corporation that is active in international trade;
- (5) Three members of the public appointed by the President of the Senate as follows:
 - (a) A health care professional;
 - (b) A representative of a Maine-based manufacturing business with 25 or more employees; and
 - (c) A representative of an economic development organization; and
- (6) Three members of the public appointed by the Speaker of the House as follows:
 - (a) A person who is active in the organized labor community;

(b) A member of a nonprofit human rights organization; and

(c) A member of a nonprofit environmental organization.

In making appointments of members of the public, the appointing authorities shall make every effort to appoint representatives of generally recognized and organized constituencies of the interest groups mentioned in subparagraphs (4), (5) and (6); and [2003, c. 699, §2 (NEW) .]

B. The following 4 commissioners or the commissioners' designees of the following 4 departments and the president or the president's designee of the Maine International Trade Center who serve as ex officio, nonvoting members:

(1) Department of Labor;

(3) Department of Environmental Protection;

(4) Department of Agriculture, Conservation and Forestry; and

(5) Department of Health and Human Services. [2003, c. 689, Pt. B, §6 (REV); 2007, c. 266, §1 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

[2003, c. 689, Pt. B, §6 (REV); 2007, c. 266, §1 (AMD); 2011, c. 657, Pt. W, §5 (REV) .]

5. Terms; vacancies; limits. Except for Legislators, commissioners and the Attorney General, who serve terms coincident with their elective or appointed terms, all members are appointed for 3-year terms. A vacancy must be filled by the same appointing authority that made the original appointment. Appointed members may not serve more than 2 terms. Members may continue to serve until their replacements are designated. A member may designate an alternate to serve on a temporary basis.

[2003, c. 699, §2 (NEW) .]

6. Chair; officers; rules. The first-named Senate member and the first-named House of Representatives member are cochairs of the commission. The commission shall appoint other officers as necessary and make rules for orderly procedure.

[2003, c. 699, §2 (NEW) .]

7. Compensation. Legislators who are members of the commission are entitled to receive the legislative per diem and expenses as defined in Title 3, section 2 for their attendance to their duties under this chapter. Other members are entitled to receive reimbursement of necessary expenses if they are not otherwise reimbursed by their employers or others whom they represent.

[2003, c. 699, §2 (NEW) .]

8. Staff. The Legislature, through the commission, shall contract for staff support for the commission, which, to the extent funding permits, must be year-round staff support. In the event funding does not permit adequate staff support, the commission may request staff support from the Legislative Council, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session.

[2013, c. 427, §1 (RPR) .]

9. Powers and duties. The commission:

A. Shall meet at least twice annually; [2003, c. 699, §2 (NEW) .]

B. Shall hear public testimony and recommendations from the people of the State and qualified experts when appropriate at no fewer than 2 locations throughout the State each year on the actual and potential social, environmental, economic and legal impacts of international trade agreements and negotiations on the State; [2003, c. 699, §2 (NEW) .]

C. Shall every 2 years conduct an assessment of the impacts of international trade agreements on Maine's state laws, municipal laws, working conditions and business environment. The assessment must be submitted and made available to the public as provided for in the annual report in paragraph D; [2007, c. 266, §2 (AMD) .]

D. Shall maintain active communications with and submit an annual report to the Governor, the Legislature, the Attorney General, municipalities, Maine's congressional delegation, the Maine International Trade Center, the Maine Municipal Association, the United States Trade Representative's Office, the National Conference of State Legislatures and the National Association of Attorneys General or the successor organization of any of these groups. The commission shall make the report easily accessible to the public by way of a publicly accessible site on the Internet maintained by the State. The report must contain information acquired pursuant to activities under paragraph B and may contain information acquired pursuant to activities under paragraph C; [2007, c. 266, §3 (AMD) .]

E. Shall maintain active communications with any entity the commission determines appropriate regarding ongoing developments in international trade agreements and policy; [2003, c. 699, §2 (NEW) .]

F. May recommend or submit legislation to the Legislature; [2003, c. 699, §2 (NEW) .]

G. May recommend that the State support, or withhold its support from, future trade negotiations or agreements; and [2003, c. 699, §2 (NEW) .]

H. May examine any aspects of international trade, international economic integration and trade agreements that the members of the commission consider appropriate. [2003, c. 699, §2 (NEW) .]

[2007, c. 266, §§2, 3 (AMD) .]

10. Accounting; outside funding. All funds appropriated, allocated or otherwise provided to the commission must be deposited in an account separate from all other funds of the Legislature and are nonlapsing. Funds in the account may be used only for the purposes of the commission. The commission may seek and accept outside funding to fulfill commission duties. Prompt notice of solicitation and acceptance of funds must be sent to the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council, along with an accounting that includes the amount received, the date that amount was received, from whom that amount was received, the purpose of the donation and any limitation on use of the funds. The executive director shall administer all funds received in accordance with this section. At the beginning of each fiscal year, and at any other time at the request of the cochairs of the commission, the executive director shall provide to the commission an accounting of all funds available to the commission, including funds available for staff support.

[2013, c. 427, §2 (AMD) .]

11. Evaluation. By December 31, 2009, the commission shall conduct an evaluation of its activities and recommend to the Legislature whether to continue, alter or cease the commission's activities.

[2003, c. 699, §2 (NEW) .]

SECTION HISTORY

2003, c. 689, Pt. B, §6 (REV). 2003, c. 699, §2 (NEW). 2007, c. 266, §§1-3 (AMD). 2011, c. 657, Pt. W, §5 (REV). 2013, c. 427, §§1, 2 (AMD).

§12. QUORUM

For purposes of holding a meeting, a quorum is 11 members. A quorum must be present to start a meeting but not to continue or adjourn a meeting. For purposes of voting, a quorum is 9 voting members. [2007, c. 266, §4 (NEW) .]

SECTION HISTORY

2007, c. 266, §4 (NEW) .

§13. LEGISLATIVE APPROVAL OF TRADE AGREEMENTS

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commission" means the Citizen Trade Policy Commission established in Title 5, section 12004-I, subsection 79-A. [2009, c. 385, §1 (NEW) .]

B. "Trade agreement" means an agreement reached between the United States Government and any other country, countries or other international political entity or entities that proposes to regulate trade, procurement, services or investment among the parties to the agreement. "Trade agreement" includes, but is not limited to, any agreements under the auspices of the World Trade Organization, all regional free trade agreements, including the North American Free Trade Agreement and the Central America Free Trade Agreement and all bilateral agreements entered into by the United States, as well as requests for binding agreement received from the United States Trade Representative. [2009, c. 385, §1 (NEW) .]

[2009, c. 385, §1 (NEW) .]

2. State official prohibited from binding the State. If the United States Government provides the State with the opportunity to consent to or reject binding the State to a trade agreement, or a provision within a trade agreement, then an official of the State, including but not limited to the Governor, may not bind the State or give consent to the United States Government to bind the State in those circumstances, except as provided in this section.

[2009, c. 385, §1 (NEW) .]

3. Receipt of request for trade agreement. When a communication from the United States Trade Representative concerning a trade agreement provision is received by the State, the Governor shall submit a copy of the communication and the proposed trade agreement, or relevant provisions of the trade agreement, to the chairs of the commission, the President of the Senate, the Speaker of the House of Representatives, the Maine International Trade Center and the joint standing committees of the Legislature having jurisdiction over state and local government matters and business, research and economic development matters.

[2009, c. 385, §1 (NEW) .]

4. Review by commission. The commission, in consultation with the Maine International Trade Center, shall review and analyze the trade agreement and issue a report on the potential impact on the State of agreeing to be bound by the trade agreement, including any necessary implementing legislation, to the Legislature and the Governor.

[2009, c. 385, §1 (NEW) .]

5. Legislative approval of trade agreement required. Unless the Legislature by proper enactment of a law authorizes the Governor or another official of the State to enter into the specific proposed trade agreement, the State may not be bound by that trade agreement.

[2009, c. 385, §1 (NEW) .]

SECTION HISTORY

2009, c. 385, §1 (NEW) .

APPENDIX B

Membership list, Maine Citizen Trade Policy Commission

Citizen Trade Policy Commission

Membership as of December 31, 2013

Appointment(s) by the Governor

Vacant	Representing Nonprofit Organizations Promoting Fair Trade Policies
---------------	---

John Palmer P.O. Box 519 Oxford, ME 04270 207 539-4800	Representing Small Business
--	------------------------------------

Harry Ricker 35 MacIntosh Drive Turner, ME 04282 207 754-3455	Representing Small Farmers
---	-----------------------------------

Appointments by the President of the Senate

Sen. Troy Jackson Chair 167 Allagash Road Allagash, ME 04774 207 436-0763	Senate Member
---	----------------------

Sen. Roger L. Sherman P.O. Box 682 Houlton, ME 04730 207 532-7073	Senate Member
---	----------------------

Sen. John L. Patrick 206 Strafford Avenue Rumford, ME 04276 207 364-7666	Senate Member
--	----------------------

Dr. Joel A. Kase P.O. Box 3493 Lewiston, ME 04240 207 281-3665	Representing Health Care Professionals
--	---

Stephen Cole
80 Bristol Road
Damariscotta, ME 04543

Representing Economic Development Organizations

Robert Umphrey
875 Skyway Street
Presque Isle, ME 04769

**Representing Maine-based Manufacturing Business' with
more than 25 Employees**

Appointment(s) by the Speaker

Rep. Sharon Anglin Treat **House Member**
Chair
22 Page Street
Hallowell, ME 04347
207 623-7161

Rep. Bernard L. Ayotte **House Member**
1469 Van Buren Road
Caswell, ME 04750
207 325-4905

Rep. Jeff M. McCabe **House Member**
13 Olive Street
Skowhegan, ME 04976
207 474-5402

Michael Herz **Representing Nonprofit Environmental Organizations**
P.O. Box 1462
Damariscotta, ME 04543

Vacant **Representing Nonprofit Human Rights Organizations**

Jay Wadleigh **Representing Organized Labor**
International Association
Of Machinists
40 Wadleigh Way
Belgrade, ME 04917

Attorney General

Linda Pistner
6 State House Station
Augusta, ME 04333-0006
207 626-8662

Attorney General or designee

Commissioner, Department of Environmental Protection

Mike Karragiannes
17 State House Station
Augusta, ME 04333-0017
207 287-8662

Commissioner or designee

Commissioner, Department of Agriculture, Conservation and Forestry

Vacant

Commissioner or Designee

Commissioner, Department of Labor

Pamela Taylor
54 State House Station
Augusta, ME 04333-0054
207 623-7932

Commissioner or designee

Commissioner, Department of Health & Human Services

Vacant

Commissioner or designee

Director, Maine International Trade Center

Wade Merritt
511 Congress Street
Portland, ME 04101
207 541-7400

Representing Maine International Trade Center

Contract Staff
Lock Kiermaier
Kiermaier Consulting

16 Court Street Place
Augusta, ME 04330
207 446-0651

APPENDIX C

Legislative Resolution Sponsored by the Citizen Trade Policy Commission

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES, THE UNITED STATES CONGRESS AND THE UNITED STATES TRADE REPRESENTATIVE REGARDING THE USE OF TRADE PROMOTION AUTHORITY IN INTERNATIONAL TRADE POLICY

WE, your Memorialists, the Members of the One Hundred and Twenty-sixth Legislature of the State of Maine now assembled in the First Regular Session, most respectfully present and petition the President of the United States, the United States Congress and the United States Trade Representative as follows:

WHEREAS, the State strongly supports international trade when fair rules of trade are in place and seeks to be an active participant in the global economy, and the State seeks to maximize the benefits and minimize any negative effects of international trade; and

WHEREAS, existing trade agreements have effects that extend significantly beyond the bounds of traditional trade matters, such as tariffs and quotas, and can undermine Maine's constitutionally guaranteed authority to protect the public health, safety and welfare and its regulatory authority; and

WHEREAS, a succession of federal trade negotiators from both political parties over the years have failed to operate in a transparent manner and have failed to meaningfully consult with the State on the far-reaching effect of trade agreements on state and local laws, even when obligating the State to comply with the terms of these agreements; and

WHEREAS, Article II, Section 2 of the United States Constitution empowers the President of the United States "...by and with the advice and consent of the Senate, to make treaties, provided two thirds of Senators present concur..."; and

WHEREAS, the trade promotion authority implemented by the United States Congress and the President of the United States with regard to international trade and investment treaties and agreements entered into over the past several years, commonly known as fast-track negotiating authority, does not adequately provide for the constitutionally required review and approval of treaties; and

WHEREAS, the United States Trade Representative, at the direction of the President of the United States, is currently negotiating or planning to enter into negotiations for several multilateral trade and investment treaties, including the Trans-Pacific Partnership Agreement and the Trans-Atlantic Trade and Investment Partnership; and

WHEREAS, proposals are under consideration to review these and future trade and investment agreements pursuant to a fast-track model; and

WHEREAS, the current process of consultation with states by the Federal Government on trade policy fails to provide a way for states to meaningfully participate in the development of trade policy, despite the fact that trade rules could undermine state sovereignty; and

HP1129, , 126th Maine State Legislature
JOINT RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES, THE UNITED STATES CONGRESS
AND THE UNITED STATES TRADE REPRESENTATIVE REGARDING THE USE OF TRADE PROMOTION AUTHORITY
IN INTERNATIONAL TRADE POLICY

WHEREAS, under current trade rules, states have not had channels for meaningful communication with the United States Trade Representative, as both the Intergovernmental Policy Advisory Committee on Trade and the state point of contact system have proven insufficient to allow input from states, and states do not always seem to be considered as a partner in government; and

WHEREAS, the President of the United States, the United States Trade Representative and the Maine Congressional Delegation will have a role in shaping future trade policy legislation; now, therefore, be it

RESOLVED: That We, your Memorialists, respectfully urge and request that future trade policy include reforms to improve the process of consultation both between the Executive Branch and Congress and between the Federal Government and the states; and be it further

RESOLVED: That We, your Memorialists, respectfully urge and request that the fast-track model of consultation and approval of international treaties and agreements be rejected with respect to pending agreements and agreements not yet under negotiation; and be it further

RESOLVED: That We, your Memorialists, respectfully urge and request that the President of the United States, the United States Congress and the United States Trade Representative seek to develop a new middle ground approach to consultation that meets the constitutional requirements for treaty review and approval while at the same time allowing the United States Trade Representative adequate flexibility to negotiate the increasingly complicated provisions of international trade treaties; and be it further

RESOLVED: That We, your Memorialists, respectfully urge and request that the President of the United States, the United States Congress and the United States Trade Representative seek a meaningful consultation system that increases transparency, promotes information sharing, allows for timely and frequent consultations, provides state-level trade data analysis, provides legal analysis for states on the effect of trade on state laws, increases public participation and acknowledges and respects each state's sovereignty; and be it further

RESOLVED: That We, your Memorialists, respectfully urge and request that each instance in which trade promotion authority is authorized by the United States Congress be limited to a specific trade agreement to help ensure the adequate review and approval of each international trade treaty; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Barack H. Obama, President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, to the United States Trade Representative and to each Member of the Maine Congressional Delegation.

APPENDIX D

Letters Sent by the Citizen Trade Policy Commission

Sen. Troy Jackson, Chair
Sen. John Patrick
Sen. Roger Sherman
Rep. Sharon Treat, Chair
Rep. Jeff McCabe
Rep. Bernard Ayotte

Robert Umphrey
Stephen Cole
Michael Herz
Dr. Joel Kase



Mike Karagiannes
Wade Merritt
John Palmer
Linda Pistner
Harry Ricker
Jay Wadleigh

Staff:
Lock Kiermaier

STATE OF MAINE

Citizen Trade Policy Commission

May 7, 2013

Speaker Mark W. Eves, Chair
President Justin L. Alfond, Vice Chair
Legislative Council
126th Maine State Legislature
115 State House Station
Augusta, Maine 04333-0115

Dear Speaker Eves, President Alfond and Members of the Legislative Council,

As you know, the Maine Citizen Trade Policy Commission (CTPC) "... is established to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and Legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements." [10 MRSA §11(3)] In seeking to fulfill its statutory mandate, the Commission voted unanimously during its meeting of April 26, 2013 to submit this letter to you indicating our strong concerns regarding a resolution currently tabled in the House.

During our April 26th meeting, CTPC member Representative Jeff McCabe asked the commission to review the wording and contents of a proposed Resolution titled "Joint Resolution Affirming the Friendship between the State of Maine and the Republic of China". Representative McCabe noted that this Resolution includes language which supports Taiwan's inclusion in the United Nations Framework Convention on Climate Change, the United Nations International Civil Aviation Organization and the TransPacific Partnership Agreement (TPPA). Representative McCabe indicated his significant concerns about the appropriateness of these

Citizen Trade Policy Commission
c/o Office of Policy & Legal Analysis
State House Station #13, Augusta, ME 04333-0013 Telephone: 207 287-1670
<http://www.maine.gov/legis/opla/citpol.htm>


various endorsements and pointed out that most of these issues have been reviewed by the CTPC which is the entity created by the Legislature specifically for the review of international trade agreements. To the extent that the TPPA has been reviewed, the CTPC has raised various concerns which are detailed in our 2012 Assessment which can be viewed at the CTPC website:

<http://maine.gov/legis/opla/CTPC2012finalassessment.pdf>

After discussion, the CTPC unanimously endorsed a motion to send you this letter indicating the commission's significant concerns regarding the legislative approval of these endorsements which have not been properly reviewed in any detail by the CTPC or any legislative policy committee.

In closing, we strongly urge you and all members of the Legislature to consider amending the proposed Resolution to omit all endorsements of any participation of the Republic of China in all international trade agreements until such a time that the CTPC and other legislative policy committees can properly review and vet any such endorsement by the Maine State Legislature.

Sincerely,



Senator Troy Jackson, Chair



Representative Sharon Anglin Treat, Chair

Sen. Troy Jackson, Chair
Sen. John Patrick
Sen. Roger Sherman
Rep. Sharon Treat, Chair
Rep. Jeff McCabe
Rep. Bernard Ayotte

Robert Umphrey
Stephen Cole
Michael Herz
Dr. Joel Kase



Mike Karagiannes
Wade Merritt
John Palmer
Linda Pistner
Harry Ricker
Jay Wadleigh

Staff:
Lock Kiermaier

STATE OF MAINE

Citizen Trade Policy Commission

May 7, 2013

Secretary Janet Napolitano
Department of Homeland Security
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Napolitano,

The Maine Citizen Trade Policy Commission (CTPC) "... is established to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and Legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements." In seeking to fulfill its statutory mandate, the Commission voted unanimously during its meeting of April 26, 2013 to submit this letter to you indicating our strong opposition to any proposal from the Department of Homeland Security to impose a border-crossing fee to Canadians crossing the borders to the United States.

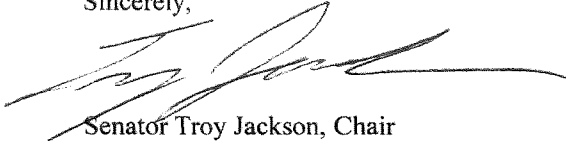
During our April 26th meeting, the CTPC heard a presentation from Mr. Daniel Deveau, Maine Canadian Trade Ombudsman for the State of Maine, in which he described a recent controversial proposal from the U.S. Department of Homeland Security to impose a fee on Canadians crossing the border into the U.S. either by foot or vehicle. In the course of the discussion on this issue, members of the CTPC heard and exchanged information which suggested that the imposition of such a fee would be significantly detrimental to free flowing trade between Canada and the U.S. and would result in a deterioration of the close community relationships that currently exist between the residents of northern Maine and the bordering Canadian provinces. A motion was unanimously approved to send a letter you stating the CTPC's formal opposition to such a fee for the reasons enumerated above.

Along with our neighboring Canadian provinces, which include New Brunswick, Ontario and Quebec, the CTPC and the State of Maine in general has worked diligently to promote and encourage trade between our two countries. The encouragement of increased trade necessarily leads to further economic development for both countries as well as preserving the close cultural and community ties and relationships that have historically existed between Maine and its Canadian neighbors for many years. Without reservation, we believe that the imposition of any proposed border-crossing fee as described by Mr. Deveau and detailed in numerous media reports, would significantly impair

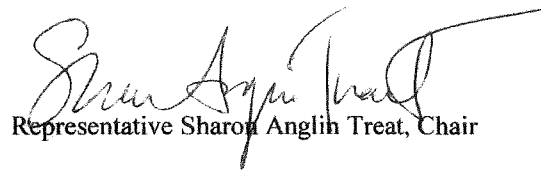
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ongoing efforts towards economic development and the cordial relationship the State of Maine currently has with its Canadian provincial neighbors. We urge you to drop any form of this proposal and to constantly strive for a border-crossing process which maintains mutual security between our two countries while at the same time promoting further economic development and our historically close relationship.

Sincerely,



Senator Troy Jackson, Chair



Representative Sharon Anglin Treat, Chair

c.c. Daniel Deveau, Maine Canadian Trade Ombudsman
Governor Paul LePage
Senator Susan Collins
Senator Angus King
Representative Michael Michaud
Representative Chellie Pingree
Demetrios Marantis, Acting USTR

Sen. Troy Jackson, Chair
Sen. John Patrick
Sen. Roger Sherman
Rep. Sharon Treat, Chair
Rep. Jeff McCabe
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Lock Kiermaier

STATE OF MAINE

Citizen Trade Policy Commission

May 15, 2013

The Honorable Harry Reid
Senate Majority Leader
United States Senate
522 Hart Senate Office Building
Washington, DC 20510

The Honorable John Boehner
Speaker of the House
U.S. House of Representatives
1011 Longworth House Office Building
Washington, DC 20515

The Honorable Mitch McConnell
Senate Minority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
235 Cannon House Office Building
Washington, DC 20515

Dear Leaders,

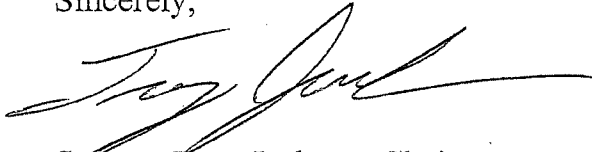
The Maine Citizen Trade Policy Commission (CTPC) "... is established to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and Legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements." In seeking to fulfill its statutory mandate, the Commission voted unanimously during its meeting of April 26, 2013 to submit this letter to you indicating our strong support for third year appropriation for the State Trade and Export Promotion (STEP) program within the US Small Business Administration.

During our most recent meeting on April 26, 2013, the CTPC received a presentation from MITC our state trade office about various activities to promote international trade for the State of Maine. It is our understanding that funds from

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the STEP program have been used to effectively assist small Maine businesses in the costs incurred to promote the exporting of their products. Most recently, MITC used \$80,000 from the SBA competitive grants program to support 40 Maine companies to export business valued at approximately \$16 million dollars. In view of the apparent success of the MITC in using limited grant funds to effectively assist small businesses in Maine with the vital task of promoting and furthering international trade, the CTPC strongly supports the STEP program and urges its continued funding.

Sincerely,



Senator Troy Jackson, Chair



Representative Sharon Anglin Treat, Chair

cc:

Senator Susan Collins

Senator Angus King

Representative Michael Michaud

Representative Chellie Pingree

Sen. Troy Jackson, Chair
Sen. John Patrick
Sen. Roger Sherman
Rep. Sharon Treat, Chair
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STATE OF MAINE

Citizen Trade Policy Commission

August 22, 2013

Ambassador Michael Froman
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

Dear Ambassador Froman:

The Maine Citizen Trade Policy Commission (CTPC) is authorized by Maine State law [10 MRSA §11(3)] "... to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environment; to provide a mechanism for citizens and Legislators to voice their concerns and recommendations; and to make policy recommendations designed to protect Maine's jobs, business environment and laws from any negative impact of trade agreements." In carrying out its statutory mission, the CTPC has closely been following various developments relating to the proposed Transpacific Partnership Agreement (TPPA).

As chairs of the CTPC, we write to inform you of our deep concern about the new text concerning tobacco and public health measures under consideration by the USTR for tabling in the TPPA negotiations currently underway. This proposal is a major retreat from the policy that was drafted and widely shared in great detail by USTR in 2012, which would have created a "safe harbor" for some tobacco control regulations, and which the USTR itself stated would "explicitly recognize the unique status of tobacco products from a health and regulatory perspective".

Based on our most recent understanding, the current USTR proposal on tobacco as it relates to the TPPA is to reaffirm that existing language in the General Agreement on Tariffs and Trade (GATT) which establishes a nation's right to enact health and safety measures includes tobacco measures. While the Maine CTPC had reservations about the earlier USTR proposal, which failed to recognize and protect the central role of U.S. state governments in enacting and enforcing tobacco control regulations and which contained numerous loopholes, the new proposal is so weak that it fails to be legally significant.

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First, USTR's proposal is not legally significant because it simply states the obvious. As the WTO dispute panel noted in the Indonesia clove cigarettes dispute, "It is self-evident that measures to reduce youth smoking are aimed the protection of human health ..." Second, it is not legally significant because as a general exception, it does not cover the investment chapter – where the greatest litigation threat to tobacco-control measures is posed, as litigation against Uruguay and Australia demonstrates. Also, assuming that TPPA drafters follow the KORUS model, general exceptions do not apply to the chapter on intellectual property and perhaps other new chapters such as those on regulatory coherence and state-owned enterprises.

We want to particularly emphasize our grave concern that the current USTR proposal on tobacco for the TPPA leaves the door wide open for the future use of Investor-State Dispute Resolution (ISDR) mechanisms by large international corporations to challenge and overturn federal, state and local laws and regulations which govern tobacco control measures. It is our strongly held view that the tenants of the proposed TPPA should not be used by the tobacco industry to circumvent existing or evolving public health law – either in the United States or in other TPPA member nations. We note that tobacco control measures are a firmly established tenant of current U.S. law and continue to receive the broad support of elected officials on every level regardless of political affiliation.

Further, we are not impressed with the consultation provision proposed by USTR as we understand it. This provision has no teeth in that even if the consulting parties agree, consultation cannot block a challenge to a tobacco regulation. In any event, this consultation is irrelevant to an investor-state challenge, wherein lies the greatest threat to chill or prevent regulation. In addition, from a U.S. state perspective, this provision is useless in that state health or other sub-federal tobacco regulatory authorities are not included in any consultation.

Under the circumstances, it would be better to not offer this text at all than to give the false impression that the United States is serious about protecting government authority within the TPPA to regulate tobacco to protect health.

In a previous letter dated August 1, 2012, the CTPC wrote to your predecessor Ambassador Ron Kirk, regarding our strongly held convictions about how tobacco should be treated in the TPPA. Among other things, we stated the following:

- The CTPC favors a complete "carve out" of tobacco from the trade provisions of the TPPA; in other words, we would prefer that any regulations or laws pertaining to tobacco be completely excluded from the TPPA. The CTPC believes strongly that the efforts of individual nations to control tobacco and combat its adverse health effects should not be interfered or impeded in any way by provisions of the TPPA or any other international trade agreement;
- Absent a complete "carve out" of tobacco from the TPPA, the CTPC favors an approach which modifies the purported compromise proposal being made by the USTR; more specifically, the CTPC favors an approach which ensures that all federal and state laws and regulations pertaining to tobacco regulation are not subject to jurisdiction under the TPPA and further that any tobacco-related provisions of the TPPA embrace an approach which minimizes potential litigation be it through local, state or federal court and the possible use of "investor-state" dispute settlement systems; and

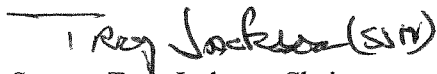
- Finally, the CTPC requests that the USTR develop a clear public statement on the specifics on the specific elements of a tobacco-related provision, as they are proposed by the USTR for consideration as a part of the TPPA.

In speaking for the CTPC, we can safely say that our position has not changed and that we are concerned that the current alternative being proposed by the USTR is woefully inadequate and may in fact be counterproductive towards achieving the goal of protecting the public health and welfare through our federal, state and local laws and regulations which govern tobacco control measures. Given the about-face represented by the USTR's current tobacco proposal, we urge you to consult widely before tabling any text on this topic, and suggest that a public hearing on the treatment of tobacco in the TPPA would be an effective way to convene the relevant parties and gather the information needed to draft an effective proposal that truly protects public health and in particular, the health of our youth.

In closing, at the very least, we favor returning to the earlier USTR "safe harbor" proposal as at least a starting point for further negotiations, although we would prefer a more comprehensive approach which goes further to exempt or "carve out" tobacco control measures from the proposed TPPA.

Please feel free to call on either of us for further information regarding our position on this vitally important public policy issue.

Sincerely,

 (SM)

Senator Troy Jackson, Chair

 (DP)

Representative Sharon Anglin Treat, Chair

c.c. President Barack Obama
 Senator Susan Collins
 Senator Angus King
 Representative Michael Michaud
 Representative Chellie Pingree
 Maine Attorney General Janet Mills
 David Agnew, Deputy Assistant to the President and Director of Intergovernmental Affairs

Sen. Troy Jackson, Chair
Sen. John Patrick
Sen. Roger Sherman
Rep. Sharon Treat, Chair
Rep. Jeff McCabe
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STATE OF MAINE

Citizen Trade Policy Commission

November 27, 2013

Senator Angus S. King, Jr.
359 Dirksen Building
Washington, D.C. 20510

Dear Senator King,

Thank you for taking the time to meet with us on Friday, November 15, 2013 to discuss various current topics surrounding international trade treaties. In particular, we appreciated the opportunity to meet with you and exchange viewpoints and information on the TransPacific Partnership Agreement (TPP) and the President's "Fast Track" proposal.

We also appreciate your strong advocacy for retaining the footwear tariffs in the TPP that will be necessary to retain approximately 900 textile jobs in the state. Your efforts on this issue will be crucial to ensuring that these footwear jobs will be saved in communities like Norridgewock and Skowhegan.

In addition, we would like to reiterate the importance of the specific issues that we discussed and the recent positions taken by the Citizen Trade Policy Commission (CTPC):

- We strongly support the "carve out" of tobacco health measures from the TPP;
- We are in favor of ensuring that prescription pharmaceuticals are affordable and accessible to member nations of the TPP;
- We believe that the TPP should support and allow for strong federal, state and local regulations and laws that protect the environment and public safety;
- We have serious reservations about the use of Investor-State Dispute Resolution (ISDS) arbitration tribunals in the TPP and the profound threat that these tribunals represent to our national sovereignty; and
- We also object to the current USTR proposal for "Fast Track" authority as a means of expediting congressional approval of the TPP and other similar Free Trade Agreements and maintain that the current process needs to be changed to allow for much greater transparency and participation for Congress to adequately fulfill its constitutional responsibility to review and approve international trade treaties.

In closing, we also wish to emphasize the challenging set of decisions that will be involved for you and other members of Maine's congressional delegation in approving whatever "Fast Track" proposal is finally submitted by President Obama and then, separately, the merits of approving the final negotiated provisions of the TPP.

Please do not hesitate to contact either of us or CTPC Chair Senator Troy Jackson with any questions about these and other topics regarding international trade treaties and their effect upon the State of Maine.

Sincerely,

Sharon Anglin Treat AAT

Representative Sharon Anglin Treat, CTPC Chair,

Roger Sherman KEB

Senator Roger Sherman, CTPC Member and Past Chair

c.c.

CTPC Chair Senator Troy Jackson
CTPC members
Marge Kilkelly, Senior Policy Advisor
Chris Rector, Regional Representative

Citizen Trade Policy Commission
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